

OGLETREE, DEAKINS, NASH, SMOAK &  
STEWART, P.C., SBN 00504800  
Mark G. Kisicki (CA SBN 150057)  
mark.kisicki@ogletreedeakins.com  
2415 E. Camelback Road, Suite 800  
Phoenix, AZ 85016  
Telephone: 602.778.3700  
Fax: 602.778.3750

*Attorneys for Defendants*

\*Additional counsel for Defendants on the following page

\*Counsel for Plaintiffs and the Proposed Class on the following page

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

PETER SCHUMAN, an individual, and,  
WILLIAM COMPLIN, an individual, on behalf  
of themselves and on behalf of others similarly  
situated,

Plaintiffs,

v.

MICROCHIP TECHNOLOGY  
INCORPORATED, a corporation; ATMEL  
CORPORATION, a corporation; and ATMEL  
CORPORATION U.S. SEVERANCE  
GUARANTEE BENEFIT PROGRAM, an  
employee benefit plan,

Defendants.

No. 4:16-CV-05544-HSG

**CLASS ACTION**

**JOINT STIPULATION TO WITHDRAW  
DEFENDANTS' MOTION TO DISMISS  
AND FOR PLAINTIFFS TO FILE  
AMENDED COMPLAINT; JOINT  
REQUEST TO VACATE CASE  
MANAGEMENT CONFERENCE; AND  
ORDER**

CMC Date: January 10, 2017  
Hearing Date: February 9, 2017  
Time: 2:00 p.m.  
Courtroom: 10, 19th Floor  
Action Filed: September 29, 2016  
Trial Date: None

JOINT STIPULATION TO WITHDRAW DEFENDANTS' MOTION TO DISMISS AND FOR PLAINTIFFS TO  
FILE AMENDED COMPLAINT; JOINT REQUEST TO VACATE CASE MANAGEMENT CONFERENCE; AND

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**ADDITIONAL DEFENDANTS' COUNSEL:**

Mark Schmidtke (IN SBN 1733-45) admitted *pro hac vice*  
mark.schmidtke@ogletreedeakins.com  
56 S. Washington Street, Suite 302  
Valparaiso, IN 46383  
Telephone: 219.242.8668  
Fax: 219.242.8669

*Attorneys for Defendants*

**PLAINTIFFS' COUNSEL:**

Michael Rubin (SBN 80618)  
Connie K. Chan (SBN 284230)  
Raphael N. Rajendra (SBN 255096)  
ALTSHULER BERZON LLP  
177 Post Street, Suite 300  
San Francisco, CA 94108  
Telephone: (415) 421-7151  
Facsimile: (415) 362-8064  
mrubin@altber.com  
cchan@altber.com  
rrajendra@altber.com  
  
Cliff Palefsky (SBN 77683)  
Keith Ehrman (SBN 106985)  
MCGUINN, HILLSMAN & PALEFSKY  
535 Pacific Avenue  
San Francisco, CA 94133  
Telephone: (415) 421-9292  
Facsimile: (415) 403-0202  
CP@mhpsf.com  
keith@mhpsf.com

*Attorneys for Plaintiffs and the Proposed Class*

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On November 16, 2016, Defendants Microchip Technology, Inc. (“Microchip”), Atmel Corporation (“Atmel”) and Atmel Corporation U.S. Severance Guarantee Benefit Program (“Severance Program” or “Plan” and, collectively with Microchip and Atmel, “Defendants”) filed a Motion to Dismiss Plaintiffs’ Complaint. [Dkt. # 17.]

On November 30, 2016, the Court granted the parties’ Stipulation to extend the Motion to Dismiss briefing deadlines, making Plaintiffs’ response due by December 21, 2016 and Defendants’ reply due by January 4, 2017. Since then, Defendants’ counsel and Plaintiffs’ counsel have agreed to a schedule that will avoid burdening the Court and the parties with litigating an issue asserted in the Motion to Dismiss; namely, whether Plaintiffs’ action should be dismissed for failing to exhaust the administrative claims process required by Section 502(a)(1)(B) of the Employee Retirement Income Security Act of 1974 (“ERISA”). In particular, the parties agreed that:

1. Defendants will withdraw their Motion to Dismiss;
2. The Named Plaintiffs (Schuman and Coplin) will exhaust ERISA’s administrative claims process, including appealing any adverse claims determination;
3. The Plan Administrator will take no more than 90 days total to resolve the named Plaintiffs’ claims, meaning that the Plan Administrator will respond to Plaintiff Schuman’s claim on or before December 30, 2016 and Plaintiff Coplin’s claim on or before January 2, 2017;
4. The Named Plaintiffs will promptly appeal any denial of benefits by the Plan Administrator;
5. The Plan will resolve any such appeal in no more than 60 days from the date the appeal is taken;
6. Defendants will not assert that the failure to exhaust by any individual who is “similarly situated” to the Named Plaintiffs (any employee who was or is terminated without cause between April 4, 2016 and March 19, 2017 and agreed to sign or did sign a Severance Agreement and Release, even if it is/was not the exact same Severance Agreement and

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1 Release form that Schuman or Coplin signed) bars that individual's claims or gives rise to  
2 an affirmative defense to that individual's claim;

- 3 7. The parties anticipate that this administrative exhaustion process will be completed no later  
4 than mid-March 2017, at which time Plaintiffs will file an amended complaint, which shall  
5 be filed no later than March 31, 2017.

6  
7 The parties also jointly request that the Court vacate the Case Management Conference  
8 currently set for January 10, 2017 (and the other dates established by the Court's Order Setting  
9 Initial Case Management Conference and Deadlines) and reset the Case Management Conference  
10 (and related deadlines) after Plaintiffs have filed an amended complaint.

11 DATED: December 21, 2016

12 OGLETREE, DEAKINS, NASH, SMOAK &  
13 STEWART, P.C.

14 By: /s/ Mark G. Kisicki  
15 Mark G. Kisicki  
2415 East Camelback Road, Suite 800  
16 Phoenix, Arizona 85016  
Mark Schmidtke  
56 S. Washington Street, Suite 302  
17 Valparaiso, IN 46383

18 Attorneys for Defendants

19  
20 ALTSHULER BERZON LLP

21 By: /s/ Michael Rubin (with permission)  
22 Michael Rubin  
23 Connie K. Chan  
Raphael N. Rajendra  
ALTSHULER BERZON LLP  
177 Post Street, Suite 300  
24 San Francisco, CA 94108

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Cliff Palefsky  
Keith Ehrman  
MCGUINN, HILLSMAN & PALEFSKY  
535 Pacific Avenue  
San Francisco, CA 94133

Attorneys for Plaintiffs

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**SIGNATURE ATTESTATION**

In accordance with Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this document has been obtained from the signatories on this e-filed document, and that this attestation was executed on December 21, 2016.

By: /s/ Mark G. Kisicki

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**ORDER**

IT IS SO ORDERED that:

1. Defendants' Motion to Dismiss [Dkt. # 17] is deemed withdrawn;
2. Plaintiffs may file an amended complaint once they have exhausted their administrative remedies; and
3. The Case Management Conference currently set for January 10, 2017 (and each other date established by the Order Setting the Initial Case Management Conference) is vacated and will be reset after Plaintiffs file an amended complaint.

Dated: December 22, 2016

  
JUDGE HAYWOOD S. GILLIAM, JR.  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

27936040.1

JOINT STIPULATION TO WITHDRAW DEFENDANTS' MOTION TO DISMISS AND FOR PLAINTIFFS TO  
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